

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1797 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 20-8.1-1-19 IS ADDED TO THE INDIANA
- 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 2005]: **Sec. 19. As used in this article,**
- 6 **"dependent" has the meaning set forth in Section 152(a) of the**
- 7 **Internal Revenue Code.**
- 8 SECTION 2. IC 20-8.1-1-20 IS ADDED TO THE INDIANA
- 9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 10 [EFFECTIVE JULY 1, 2005]: **Sec. 20. As used in this article,**
- 11 **"qualified education expenditures" means expenditures made by**
- 12 **a taxpayer during the twelve (12) month period beginning July 1**
- 13 **and ending June 30 of the taxable year for a dependent with**
- 14 **respect to a school of choice for any of the following:**
- 15 (1) **Fees for academic tuition or instruction.**
- 16 (2) **If the dependent is not enrolled in a school that charges**
- 17 **tuition, expenditures for computer software, textbooks,**
- 18 **workbooks, curricula, school supplies other than personal**
- 19 **computers, and other written materials used primarily for**
- 20 **academic instruction and for academic tutoring.**
- 21 (3) **Expenditures for transporting the dependent to and from**
- 22 **the school of choice where the dependent is enrolled, excluding**
- 23 **transportation for extracurricular activities.**
- 24 **However, the total of a taxpayer's expenditures described in this**
- 25 **section must be reduced by the amount of a scholarship received**

under IC 20-8.1-6.1-14 to determine qualified educational expenditures for purposes of IC 20-8.1-6.1-3.1.

SECTION 3. IC 20-8.1-1-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. As used in this chapter, "school of choice" is either a:

- (1) nonpublic school (as defined in IC 20-10.1-1-3); or
- (2) public school (as defined in IC 20-10.1-1-2) in which a dependent is enrolled but that is not the dependent's school of legal settlement for purposes of the general school tuition support formula.

SECTION 4. IC 20-8.1-1-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. As used in this article, "taxpayer" means:

- (1) an individual who is; or
- (2) an individual and the individual's spouse, in the case of a joint return, who are;

subject to the adjusted gross income tax.

SECTION 5. IC 20-8.1-6.1-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.1. (a) This section applies to a taxpayer who has a dependent who has legal settlement in a school corporation located in Indiana.

(b) Except as provided in subsection (c), a taxpayer who makes qualified education expenditures for a dependent is entitled to a credit against the adjusted gross income tax imposed by IC 6-3 for the taxable year. The credit to which the taxpayer is entitled for all the taxpayer's dependents combined is equal to the lesser of:

- (1) the qualified education expenditures of the taxpayer; or
- (2) the following amount per taxpayer:

Taxable Year Ending In	Amount
2006 or 2007	\$1,000
2008 or 2009	\$1,500
2010 or 2011	\$2,000
2012 or 2013	\$2,500
2014 and thereafter	\$3,000

The credit amount under this subsection with respect to a dependent is reduced by any credit amount with respect to other dependents under subsection (c) of this chapter.

(c) This subsection applies to the determination of a credit for any taxpayer with respect to any dependent who:

- (1) is not enrolled in a public school in 2005 but who is eligible for enrollment in a public school in 2005; or
- (2) is a member of a household with an annual household income that is more than three hundred fifty percent (350%)

of the federal income poverty level as determined annually by the federal Office of Management and Budget under 42 U.S.C. 9902.

A taxpayer described in this subsection is not entitled to a credit under this chapter for expenditures made before July 1, 2007, with respect to the dependent described in this subsection. The credit for such a taxpayer for expenditures made with respect to the dependent after June 30, 2007, is equal to the lesser of the qualified education expenditures of the taxpayer or the following amount per taxpayer:

Taxable Year Ending In	Amount
2008 or 2009	\$500
2010 or 2011	\$1,000
2012 or 2013	\$1,500
2014 or 2015	\$2,000
2016 or 2017	\$2,500
2018	\$3,000

This subsection expires for taxable years ending after 2018.

(d) The department shall develop a process and create forms that will:

- (1) permit the taxpayer to assign credits under this chapter to the school of choice in which the taxpayer's dependent is enrolled; and
- (2) allow the school that receives an assignment of credits to claim and receive the amount of the credit as soon as the taxpayer has filed the required income tax return for the taxable year.

(e) If the amount of the credit provided by this section that a taxpayer uses during a particular taxable year exceeds the sum of the taxes imposed on the taxpayer by IC 6-3 for the taxable year after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this section, the excess shall be returned to the taxpayer as a refund.

(f) Acceptance by a taxpayer of a credit for qualified education expenditures for a dependent under this section does not provide any governmental entity or agency of the state with jurisdiction, authority, or control over the dependent's educational provider.

SECTION 6. IC 20-8.1-6.1-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) As used in this section, "ADM" has the meaning set forth in IC 21-3-1.6-1.1 and includes adjusted ADM.

(b) As used in this section, "eligible student" means a student who meets the requirements of subsection (f).

(c) As used in this section, "school of choice" means a nonpublic school (as defined in IC 20-10.1-1-3) or a public school (as defined

in IC 20-10.1-1-2) in which a dependent is enrolled but that is not the dependent's school of legal settlement for purposes of the general school tuition support formula, if the school:

- (1) is accredited by the state of Indiana or a national accrediting body;
- (2) complies with all health and safety laws that apply to public or nonpublic schools, respectively;
- (3) holds a valid occupancy permit if required; and
- (4) certifies that it will not discriminate in admissions on the basis of race, color, or national origin.

(d) As used in this section, "scholarship" refers to the scholarship established by subsection (e).

(e) There is established the freedom to choose scholarship program to assist parents and guardians to pay the costs of their child attending a school of choice.

(f) A student who meets the following requirements is eligible for a scholarship for a school year:

- (1) The student was enrolled in a public school during the school year preceding the first school year for which a scholarship is sought.
- (2) The public school attended by the student under subdivision (1) has an Indiana statewide testing for educational progress test (ISTEP) school corporation passing percentage below fifty percent (50%) using the students who had ISTEP tests administered by the school corporation during the school year and the percentage who scored below the academic standards set for the test.
- (3) The student has legal settlement in a school corporation located in Indiana.
- (4) The student is enrolled in a school of choice for the school year for which a scholarship is sought.
- (5) The student is a member of a household with an annual household income that is not more than three hundred fifty percent (350%) of the federal income poverty level as determined annually by the federal Office of Management and Budget under 42 U.S.C. 9902.

(g) The parent or guardian of an eligible student seeking a scholarship must apply to the department. The department shall prescribe the form of the application. The application must be filed after June 15 and before July 15 for a scholarship for the upcoming school year. The department shall make a determination whether an applicant has an eligible student within thirty (30) days after the application is filed. The amount of the scholarship for each eligible student who is enrolled in a nonpublic school of choice is the lesser of:

- (1) the cost of tuition, textbooks, and other mandatory fees,

not including fees for extracurricular activities, charged by the school of choice for the eligible student; or

(2) the sum of the average amount per ADM with respect to the public school in which the dependent is eligible for enrollment for:

(A) all components of state tuition support and categorical grants, except special education grants; plus

(B) the ad valorem property taxes for the school corporation's general fund;

for the school year for which the scholarship applies. The department shall provide the full scholarship amount by paying equal installments to the school of choice at the same times the department makes a tuition support distribution to the public school in which the eligible student has legal settlement. If an eligible student withdraws from a school of choice, the school of choice shall notify the department within ten (10) days. The department shall thereafter terminate payments to the school of choice for that student.

(h) To receive a scholarship distribution, a school of choice must agree with the department to do the following:

(1) Determine before enrolling any potential scholarship students the specific number of scholarship students that will be admitted, and, if applicants under the program exceed the determined number of spaces available at any particular grade level, conduct a random selection process to determine those students that are admitted to that grade level. Exceptions to this random selection may be made to accommodate siblings of students who are already enrolled or selected for enrollment in the school.

(2) Not charge any tuition or other fees in excess of the scholarship amount.

(3) Not charge any tuition or other fees under the scholarship program that exceed the standard rates charged to other students who pay tuition to enroll in the school.

(4) Not refund, rebate, or share a student's scholarship with a parent or the student in any manner.

(5) Use a student's scholarship only for educational purposes.

(6) Provide regular academic progress reports to the parents of students enrolled under the scholarship program.

(i) Notwithstanding the state tuition support formula and laws governing the counting of pupils in ADM, an eligible student who:

(1) is enrolled in a public school of choice; and

(2) is not already being counted in ADM of the school corporation in which the student has legal settlement;

shall, for purposes of calculating tuition support distributions, be counted as a full additional ADM of the school corporation in

1 **which the public school of choice is located after otherwise**
2 **computing the ADM of that school corporation under the state**
3 **tuition support formula. This subsection applies to a school**
4 **corporation for purposes of calculating tuition support**
5 **distributions regardless of how the scholarship student might**
6 **otherwise be treated under the school funding formula.**

7 **(j) An amount sufficient to provide scholarships and grants**
8 **under this chapter shall be paid from the state general fund."**

9 Page 17, after line 7, begin a new paragraph and insert:

10 **"SECTION 15. [EFFECTIVE JULY 1, 2005] IC 20-8.1-6.1-3.1, as**
11 **added by this act, applies to taxable years beginning after**
12 **December 31, 2005."**

13 Renumber all SECTIONS consecutively.

(Reference is to HB 1797 as printed February 25, 2005.)

Representative Behning